



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/895,458

06/29/2001

Andrew W. Allemann

T00046

9006

33438 7590 12/26/2008
HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT

PAPER NUMBER

3692

NOTIFICATION DATE

DELIVERY MODE

12/26/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

tmunoz@hamiltontertile.com

Office Action Summary	Application No. 09/895,458	Applicant(s) ALLEMANN ET AL.	
	Examiner Susanna M. Diaz	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 56-85 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 56-64, 70-79, 84 and 85 is/are rejected.
- 7) ☒ Claim(s) 9-13, 65-69 and 80-83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This final Office action is responsive to Applicant's amendment filed November 10, 2008.

Claim 79 has been amended, thereby overcoming the previously pending rejection under 35 U.S.C. § 112, 2nd paragraph.

Claims 1-13 and 56-85 are pending.

Response to Arguments

2. Applicant's arguments filed November 10, 2008 have been fully considered but they are not persuasive.

Applicant argues that "*Mottl* suggests that HR somehow becomes aware of changes in corporate goals and objectives. However, Applicants respectfully submit that *Mottl* contains no teachings or suggestions about how HR becomes aware of changes in corporate goals and objectives." (Page 15 of Applicant's response) The fact that *Mottl* somehow allows HR to become aware of changes in corporate goals and objectives implies that this is accomplished manually, through a computer, or a combination thereof (since these cover the range of options). However, *Mottl* suggests that utilizing a software-based system to perform work previously carried out manually would be obvious since the "paper system didn't accommodate the changes a growing business experiences" and "fast growth demands flexibility" (*Mottl*: Page 224). In other words, *Mottl* itself suggests the benefits of automating well-known manual processes. It has generally been recognized that broadly providing an automatic means to place a

manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner* 262 F.2d 91, 95 120 USPQ 193, 194 (CCPA 1958). As a matter of fact, using a computer to perform steps that the prior art discloses as commonly performed manually is simply "the adaptation of an old idea or invention...using newer technology that is commonly available and understood in the art..." as explained in *Leapfrog Enterprises, Inc. v. Fischer Price, Inc.*, 485 F.3d 1157, 82 USPQ2d 1687 (Fed. Cir. 2007) at 1691. The Leapfrog decision "found it obvious to combine the Bevan device [an earlier, more basic prior art device] with the SSR [a system with more modern electronic components] to update it using modern electronic components in order to gain the commonly understood benefits of such adaptation, such as decreased size, increased reliability, simplified operation, and reduced cost." (*Leapfrog*, at 1691) This decision further supports the Examiner's assertion regarding the obviousness of performing manual steps using a computer. Looking at the claim language, Mottl shows that EWorkbench determines that a primary goal (e.g., corporate goals and objectives) has been modified. It is the knowledge gleaned from Mottl, *In re Venner*, and *Leapfrog Enterprises, Inc. v. Fischer Price, Inc.* that supports the Examiner's assertion that using a computer to automate this determination step would have been obvious to one of ordinary skill in the art at the time of Applicant's invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3692

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 56-64, 70-78, 84, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over eWorkbench, as disclosed in Meyer ("eWorkbench: Real-time Tracking of Synchronized Goals), Dutton ("Making Reviews More Efficient and Fair") and Mottl ("Appraisal Software Ends HR Paper Chase"), in view of CultureWorx, as disclosed in Dutton ("Making Reviews More Efficient and Fair"), and further in view of Elliott ("Power-Charging People's Performance").

eWorkbench discloses a guidance method of maintaining goals using a computer system with at least first and second goal types so as to promote goal alignment, the guidance method comprising:

[Claim 1] providing a first rule for relationships between goals of the first goal type (Meyer: ¶¶ 4, 15 -- Associating a set of goals with a particular person is an example of a rule for each set of goals);

providing a second rule for relationships between goals of the first goal type and goals of the second goal type (Meyer: ¶¶ 4, 15 -- A linkage between a worker's goals and those of his/her manager is an example of a second rule for relationships between goals of a first goal type, e.g., those belonging to a worker or manager, and goals of a second goal type, e.g., those belonging to a manager or worker);

storing a primary goal of the first goal type (Meyer: ¶¶ 4, 15 -- The fact that goals of both the managers and workers can be tracked over time, compared, and displayed in a report means that the goal-related data must be stored. It should be noted that a

Art Unit: 3692

“primary” goal is merely a non-functional, descriptive label of a goal; therefore, any goal established by a manager or worker may be a primary goal of the first goal type);

determining content for a user interface, based on the first and second rules, such that the content facilitates goal alignment (Meyer: ¶¶ 2, 4, 15 -- A hierarchy of goals is displayed in relation to a user and his/her subordinates, for example; Dutton: ¶ 10);

storing the secondary goal of the second goal type (Meyer: ¶¶ 4, 15 – The fact that goals of both the managers and workers can be tracked over time, compared, and displayed in a report means that the goal-related data must be stored. It should be noted that a “secondary” goal is merely a non-functional, descriptive label of a goal; therefore, any goal established by a manager or worker may be a secondary goal of the second goal type);

[Claim 2] determining content for user interfaces comprises automatically customizing content for a screen capable of being displayed by the wizard, based on at least one of the first rule and the second rule (Meyer: ¶ 4: “By clicking on the ‘Align’ button, the user is presented with a list of his manager’s goals; he then clicks on the appropriate one to link it with his own. Managers also can create and automatically cascade goals down to their direct reports”; Meyer: ¶ 15: “eWorkbench can provide a report that documents the hierarchy of aligned goals. This report shows how goals are connected to one another and who owns what”).

As per claims 1-4 and 56, eWorkbench provides help in the form of automated interaction with a user, which is construed as a wizard (Meyer: ¶¶ 2-4), yet eWorkbench does not expressly teach that the wizard is activated to facilitate goal modification; however, the CultureWorx automated system interactively coaches managers (Dutton: ¶¶ 24-25), promotes goal alignment within an organization, and provides managers with the continuous feedback that they need to “allow them to make strategic adjustments within their departments to better align their work to corporate goals...CultureWorx keeps the corporate goals to the fore, helping employees avoid tailoring their goals to particular incentives” (Dutton: ¶ 25), which is suggestive of providing notices regarding alignment between a primary and secondary goal. In other words, CultureWorx encourages dynamic goal modification (i.e., “strategic adjustments”) as needed to align employees’ goals with corporate ones. Furthermore, “EWorkbench lets HR change an employee’s goals and objectives as corporate goals and objectives change” (Mottl: Pages 226-227), thereby indicating that a determination is made that a primary goal (e.g., corporate goals and objectives) has been modified. Both eWorkbench and CultureWorx are geared toward organizational goal alignment; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to specifically adapt eWorkbench to activate a wizard that facilitates goal modification (e.g., by directing a user of the user interface in generation of content of a secondary goal of the second goal type that causes alignment of the secondary goal with the primary goal of the first goal type) in order to encourage workers to modify their behavior in order to more successfully promote corporate goals,

as suggested in the disclosure of CultureWorx. Elliott further reiterates the importance of an organization's ability to effectively communicate organizational goals to employees since "people perform best when they know what their organization is trying to accomplish and what their contributions are to achieving that." (Elliott: ¶11)

Furthermore, once secondary goals are revised (e.g., by a user in response to being made aware of primary goals), the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to display any modified or updated versions of the primary and secondary goals (e.g., as generally disclosed by eWorkbench in Meyer: ¶¶ 4, 15), including content of the secondary goal that results in realization of at least part of the primary goal (which is a natural result of working toward secondary goals that are aligned with primary goals), in order to provide users with an overview of the most recent and accurate goal information, thereby reminding these users of the goals that are most important at present. It should be noted that the mere alert or conveyance of the fact that goals are misaligned is enough to direct a user of the user interface to make changes to his/her secondary goals in order to facilitate alignment of the user's secondary goals with the primary goals.

Additionally (regarding claims 1 and 85), following the aforementioned rationale, in order for the computer system to promote alignment of goals, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to determine, with the computer system, if the primary goal has been modified, and if the primary goal has been determined to have been modified, generating an alignment warning with the computer system to provide notice regarding

alignment between the modified primary goal and the secondary goal (claim 1), wherein generating an alert comprises presenting a message on a computer display (claim 85) in order to more proactively and visually encourage workers to adapt to management's latest goals, thereby helping to ensure a better communal effort and success in moving the organization forward in its overall goals, as established by management. Mottl is suggestive of the benefit of utilizing a software-based system to perform work previously carried out manually since the "paper system didn't accommodate the changes a growing business experiences" and "fast growth demands flexibility" (Mottl: Page 224).

It should also be noted that the step of "generating an alignment warning with the computer system to provide notice regarding alignment between the modified primary goal and the secondary goal" is only performed if the primary goal has been modified. If the primary goal is not modified, this step is never executed within the scope of the claimed invention. It should also be noted that the details of the alignment warning are non-functional descriptive material since they do not affect the claimed invention structurally or in terms of the manipulative steps of the invention; therefore, such details do not serve to patentably distinguish the claimed invention over the prior art. The Examiner submits that the concept of dynamically updating company goals and making sure that workers change their priorities and/or work strategies to progress toward the latest organizational goals is so old and well-known in the art of managing an organization that the claimed limitations directed toward automating such steps would have been obvious to try and would yield predictable results, especially to reap the equally well-known benefits of automation (e.g., more economical, efficient, and rapid

communication abilities as well as decreased likelihood of errors). Also, displaying alerts to people yields the well-known advantage of more succinctly and clearly presenting information to mitigate the likelihood of confusion when interpreting conveyed information.

Further regarding claim 3, eWorkbench allows workers and managers to associate goals with the people and departments in charge of the goals as well as with parent goals from a list of parent goals (Meyer: ¶¶ 2-4, 9), yet eWorkbench does not expressly teach that the team is selected from a drop-down list of teams. However, Official Notice is taken that it is old and well-known in the art of interactive software programming to allow users to make selections from a drop-down list in order to facilitate more efficient access to and evaluation of available options [now admitted prior art]. Therefore, since eWorkbench's workers may have to align their goals with multiple available managers and "workers see how their goals fit into their department's objectives (Meyer: ¶ 4), the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify eWorkbench to allow users to select a team from a drop-down list of teams in order to facilitate more efficient access to and evaluation of the available team options.

Additionally, as per claims 4 and 5, eWorkbench does not expressly teach, in response to modification of the secondary goal, automatically determining whether a child goal exists for the secondary goal and, in response to determining that the child goal does exist, automatically flagging the child goal to cause a user interface for an owner of that child goal to indicate that the child goal should be checked for alignment

Art Unit: 3692

(claim 4). eWorkbench also fails to expressly disclose determining that the owner has verified the alignment of the child goal and, in response to determining that the owner has verified the alignment, automatically unflagging the child goal (claim 5). However, as discussed above, Elliott emphasizes the importance of an organization's ability to effectively communicate organizational goals to employees since "people perform best when they know what their organization is trying to accomplish and what their contributions are to achieving that." (Elliott: ¶11) Obtaining feedback from a person (e.g., in the form of a questionnaire, a written examination, or a simple conversation) has long been used as a technique to assess a person's understanding in relation to a given topic. The steps of claims 4 and 5 are analogous to such a feedback technique. By flagging a child goal until alignment of the child goal is verified, it is effectively being confirmed that the owner of the child goal has a clear understanding of his/her required contributions toward meeting that child goal, which is clearly set forth by Elliott as being crucial to aligning goals and facilitating smoother operation of an organization. Therefore, the examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify eWorkbench to perform the steps of claims 4 and 5 in order to promote a clearer understanding of each worker's required contributions toward meeting a child goal, which is clearly set forth by Elliott as being crucial to aligning goals and facilitating smoother operation of an organization.

Regarding claim 6, eWorkbench does not expressly teach that the step of determining content for the user interface comprises automatically flagging the goal for supervisory approval in response to determining that the user has a supervisor.

Art Unit: 3692

However, eWorkbench does make it clear that worker goals are linked with those of their bosses, “all the way to the top” (Meyer: ¶ 2). “eWorkbench is a practical vehicle for obtaining real-time information on progress toward goals at every level of the organization...eWorkbench helps assure that everyone from top to bottom in an organization understands how they contribute to business results” (Meyer: ¶17). Clearly, eWorkbench envisions visibility of goal alignment through the organization. Furthermore, Official Notice is taken that it is old and well-known in the art of business management for managers to report to another supervisor who oversees both the performance of the managers as well as the managers’ subordinates [now admitted prior art]. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify eWorkbench such that the step of determining content for user interfaces comprises automatically flagging the goal for supervisory approval in response to determining that the user has a supervisor in order to facilitate the ability of high-level management to efficiently monitor the performance of both managers and their subordinates and respond to any problems that might affect the organization’s ability to meet its goals.

eWorkbench discloses a guidance process of maintaining goals in a system with at least first and second goal types so as to promote goal alignment, the guidance process comprising:

[Claim 7] wherein determining content for the user interface comprises:

populating objects for a graphical user interface with alignment information and warnings (Meyer: ¶¶ 2-5, 7, 9, 16); and

providing connections to tools for checking alignment (Meyer: ¶¶ 2-5, 7, 9, 16);
[Claim 8] wherein populating objects for a graphical user interface with alignment information and warnings comprises specifying an appearance for at least one of a manager warning object, a feedback warning object, and an alignment warning object (Meyer: ¶¶ 2-5, 7, 9, 16).

[Claims 57-64, 70] Claims 57-64 and 70 recite limitations already addressed by the rejection of claims 1-8 and 56 above; therefore, the same rejection applies.

[Claims 71-78, 84] Claims 71-78 and 84 recite limitations already addressed by the rejection of claims 1-8 and 56 above; therefore, the same rejection applies.

Allowable Subject Matter

5. Claims 9-13, 65-69, and 79-83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692